

FIRST REGULAR SESSION

SENATE BILL NO. 287

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR CRAWFORD.

1250S.011

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 32.310, 144.140, 144.605, 144.710, 144.757, and 144.759, RSMo, and to enact in lieu thereof eleven new sections relating to use taxes with an emergency clause for a certain section and an effective date for certain sections.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 32.310, 144.140, 144.605, 144.710, 144.757, and 144.759, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 32.310, 33.575, 144.140, 144.605, 144.608, 144.637, 144.638, 144.710, 144.752, 144.757, and 144.759, to read as follows:

32.310. 1. The department of revenue shall create and maintain a mapping feature on its official public website that displays sales **and use** tax information of political subdivisions of this state that have taxing authority, including the current tax rate for each sales **and use** tax imposed and collected. Such display shall have the option to showcase the borders and jurisdiction of the following political subdivisions on a map of the state to the extent that such political subdivisions collect sales **and use** tax:

- (1) Ambulance districts;
- (2) Community improvement districts;
- (3) Fire protection districts;
- (4) Levee districts;
- (5) Library districts;
- (6) Neighborhood improvement districts;

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

- 16 (7) Port authority districts;
17 (8) Tax increment financing districts;
18 (9) Transportation development districts;
19 (10) School districts; or
20 (11) Any other political subdivision that imposes a
21 sales **or use** tax within its borders and jurisdiction.

22 2. The mapping feature shall also have the option to
23 superimpose state house of representative districts and
24 state senate districts over the political subdivisions.

25 3. A political subdivision collecting sales **or use** tax
26 listed in subsection 1 of this section shall provide to the
27 department of revenue mapping and geographic data pertaining
28 to the political subdivision's borders and jurisdictions.
29 The political subdivision shall certify the accuracy of the
30 data by affidavit and shall provide the data in a format
31 specified by the department of revenue. Such data **relating**
32 **to sales taxes** shall be sent to the department of revenue by
33 April 1, 2019, and shall be updated and sent to the
34 department if a change in the political subdivision's
35 borders or jurisdiction occurs thereafter. **Such data**
36 **relating to use taxes shall be sent to the department of**
37 **revenue by January 1, 2022. If a political subdivision**
38 **fails to provide the information required under this**
39 **subsection, the department of revenue shall use the last**
40 **known sales or use tax rate for such political subdivision.**

41 4. The department of revenue may contract with another
42 entity to build and maintain the mapping feature.

43 5. By July 1, 2019, the department shall implement the
44 mapping feature using the **sales tax** data provided to it
45 under subsection 3 of this section. **By August 28, 2022, the**
46 **department shall implement the mapping feature using use tax**
47 **data provided to it under subsection 3 of this section.**

48 6. If the boundaries of a political subdivision listed
49 in subsection 1 of this section in which a sales or use tax
50 has been imposed shall thereafter be changed or altered, the
51 political subdivision shall forward to the director of
52 revenue by United States registered mail or certified mail a
53 certified copy of the ordinance adding or detaching
54 territory from the political subdivision within ten days of
55 adoption of the ordinance. The ordinance shall reflect the
56 effective date of the ordinance and shall be accompanied by
57 a map in a form to be determined by the director of
58 revenue. Upon receipt of the ordinance and map, the tax
59 imposed under the local sales tax law shall be effective in
60 the added territory or abolished in the detached territory
61 on the first day of a calendar quarter after one hundred
62 twenty days' notice to sellers.

33.575. 1. There is hereby created in the state
2 treasury the "Cash Operating Expense Fund", which shall
3 consist of money as provided under this section. The state
4 treasurer shall be custodian of the fund. In accordance
5 with sections 30.170 and 30.180, the state treasurer may
6 approve disbursements. Notwithstanding the provisions of
7 section 33.080 to the contrary, any moneys remaining in the
8 fund at the end of the biennium shall not revert to the
9 credit of the general revenue fund. The state treasurer
10 shall invest moneys in the fund in the same manner as other
11 funds are invested. Any interest and moneys earned on such
12 investments shall be credited to the fund.

13 2. (1) The state general revenue portion from
14 remittances made pursuant to section 144.752 and paragraph
15 (e) of subdivision (3) of section 144.605, with the
16 exception of revenues collected pursuant to section 144.701
17 and Article IV, Sections 43(a) and 47(a) of the Missouri

18 Constitution, shall be deposited into the cash operating
19 expense fund.

20 (2) Subject to appropriation, the following moneys may
21 be transferred into the cash operating expense fund:

22 (a) Any funds appropriated to the office of the
23 governor for expenses related to emergency duties performed
24 by the national guard when ordered out by the governor, for
25 matching funds for federal grants and for emergency
26 assistance as provided in section 44.032, and for expenses
27 of any state agency responding during a declared emergency
28 at the direction of the governor, provided the services
29 furnish immediate aid and relief, that were unexpended at
30 the end of the fiscal year; and

31 (b) Any funds appropriated to the cash operating
32 expense fund by the general assembly or otherwise credited
33 to the fund.

34 3. In any fiscal year in which actual revenues are
35 less than the revenue estimates upon which appropriations
36 were based or in which there is a budget need due to a
37 natural disaster, as proclaimed by the governor to be an
38 emergency, the governor may, subject to appropriation,
39 transfer from the fund to the general revenue fund such
40 moneys as are necessary to make up all or part of the
41 deficit between the actual revenues and the revenue
42 estimates or to meet the needs of the emergency caused by
43 the natural disaster, as the case may be.

44 4. When the balance in the fund at the close of any
45 fiscal year exceeds two and one-half percent of net general
46 revenue collections for the previous fiscal year, the excess
47 balance shall be transferred, subject to appropriation, as
48 follows:

49 (1) Fifty percent of the excess balance shall be
50 transferred to the credit of the state road fund established
51 pursuant to Article IV, Section 30(b) of the Missouri
52 Constitution, for the purposes of funding the governor's
53 transportation cost-share program; and

54 (2) Fifty percent of the excess balance shall be
55 transferred to the credit of the debt retirement fund for
56 the purpose of retiring state debt.

57 5. There is hereby created in the state treasury the
58 "Debt Retirement Fund", which shall consist of moneys
59 collected under this section. The state treasurer shall be
60 custodian of the fund. In accordance with sections 30.170
61 and 30.180, the state treasurer may approve disbursements.
62 Notwithstanding the provisions of section 33.080 to the
63 contrary, any moneys remaining in the fund at the end of the
64 biennium shall not revert to the credit of the general
65 revenue fund. The state treasurer shall invest moneys in
66 the fund in the same manner as other funds are invested.
67 Any interest and moneys earned on such investments shall be
68 credited to the fund. Subject to appropriation, moneys in
69 the fund shall be used for the retirement of debt related to
70 bonds issued by or on behalf of the state and for which the
71 office of administration is required to file annual
72 continuing disclosure reports on the electronic municipal
73 market access website, or its successor.

74 6. For the purposes of this section, "net general
75 revenue collections" means all revenue deposited into the
76 general revenue fund less refunds and revenues originally
77 deposited into the general revenue fund but designated by
78 law for a specific distribution or transfer to another state
79 fund.

144.140. 1. From every remittance to the director of
revenue made on or before the date when the same becomes
due, the person required to remit the same shall be entitled
to deduct and retain an amount equal to two percent thereof.

2. The director shall provide a monetary allowance
from the taxes collected to a certified service provider
under the terms of the contract signed with the certified
service provider, provided that such allowance shall be
funded entirely from money collected by the certified
service provider.

3. Any certified service provider receiving an
allowance under subsection 2 of this section shall not be
entitled to simultaneously deduct the allowance provided for
under subsection 1 of this section.

4. For the purposes of the section, "certified service
provider" shall mean an agent certified by the department of
revenue to perform all the seller's sales and use tax
functions, other than the seller's obligation to remit tax
on its own purchases.

144.605. The following words and phrases as used in
sections 144.600 to 144.745 mean and include:

(1) "Calendar quarter", the period of three
consecutive calendar months ending on March thirty-first,
June thirtieth, September thirtieth or December thirty-first;

(2) "Certified service provider" or "CSP", an agent
certified by the department of revenue to perform all the
seller's sales and use tax functions, other than the
seller's obligation to remit tax on its own purchases;

[(2)] (3) "Engages in business activities within this
state" includes:

(a) Maintaining or having a franchisee or licensee
operating under the seller's trade name in this state if the

14 franchisee or licensee is required to collect sales tax
15 pursuant to sections 144.010 to 144.525;

16 (b) Soliciting sales or taking orders by sales agents
17 or traveling representatives;

18 (c) A vendor is presumed to engage in business
19 activities within this state if any person, other than a
20 common carrier acting in its capacity as such, that has
21 substantial nexus with this state:

22 a. Sells a similar line of products as the vendor and
23 does so under the same or a similar business name;

24 b. Maintains an office, distribution facility,
25 warehouse, or storage place, or similar place of business in
26 the state to facilitate the delivery of property or services
27 sold by the vendor to the vendor's customers;

28 c. Delivers, installs, assembles, or performs
29 maintenance services for the vendor's customers within the
30 state;

31 d. Facilitates the vendor's delivery of property to
32 customers in the state by allowing the vendor's customers to
33 pick up property sold by the vendor at an office,
34 distribution facility, warehouse, storage place, or similar
35 place of business maintained by the person in the state; or

36 e. Conducts any other activities in the state that are
37 significantly associated with the vendor's ability to
38 establish and maintain a market in the state for the sales;

39 (d) The presumption in paragraph (c) **of this**
40 **subdivision** may be rebutted by demonstrating that the
41 person's activities in the state are not significantly
42 associated with the vendor's ability to establish or
43 maintain a market in this state for the vendor's sales;

44 (e) [Notwithstanding paragraph (c), a vendor shall be
45 presumed to engage in business activities within this state

46 if the vendor enters into an agreement with one or more
47 residents of this state under which the resident, for a
48 commission or other consideration, directly or indirectly
49 refers potential customers, whether by a link on an internet
50 website, an in-person oral presentation, telemarketing, or
51 otherwise, to the vendor, if the cumulative gross receipts
52 from sales by the vendor to customers in the state who are
53 referred to the vendor by all residents with this type of an
54 agreement with the vendor is in excess of ten thousand
55 dollars during the preceding twelve months;

56 (f) The presumption in paragraph (e) may be rebutted
57 by submitting proof that the residents with whom the vendor
58 has an agreement did not engage in any activity within the
59 state that was significantly associated with the vendor's
60 ability to establish or maintain the vendor's market in the
61 state during the preceding twelve months. Such proof may
62 consist of sworn written statements from all of the
63 residents with whom the vendor has an agreement stating that
64 they did not engage in any solicitation in the state on
65 behalf of the vendor during the preceding year provided that
66 such statements were provided and obtained in good faith]

67 **Selling tangible personal property for delivery into this**
68 **state provided the seller's gross receipts from delivery of**
69 **tangible personal property into this state in the previous**
70 **calendar year or current calendar year exceeds one hundred**
71 **thousand dollars. For the purposes of calculating a**
72 **seller's gross receipts under this paragraph, following the**
73 **close of each calendar quarter, a vendor shall determine**
74 **whether the vendor met the requirements under this paragraph**
75 **during the twelve-month period ending on the last day of the**
76 **preceding calendar quarter. If the vendor met such**
77 **requirements for any such twelve-month period, such vendor**

78 shall collect and remit the tax as provided under section
79 144.635 for a period of not less than twelve months,
80 beginning not more than three months following the close of
81 the preceding calendar quarter, and shall continue to
82 collect and remit the tax for as long as the vendor is
83 engaged in business activities within this state, as
84 provided for under this paragraph, or otherwise maintains a
85 substantial nexus with this state;

86 [(3)] (4) "Maintains a place of business in this
87 state" includes maintaining, occupying, or using,
88 permanently or temporarily, directly or indirectly, by
89 whatever name called, an office, place of distribution,
90 sales or sample room or place, warehouse or storage place,
91 or other place of business in this state, whether owned or
92 operated by the vendor or by any other person other than a
93 common carrier acting in its capacity as such;

94 [(4)] (5) "Person", any individual, firm,
95 copartnership, joint venture, association, corporation,
96 municipal or private, and whether organized for profit or
97 not, state, county, political subdivision, state department,
98 commission, board, bureau or agency, except the state
99 transportation department, estate, trust, business trust,
100 receiver or trustee appointed by the state or federal court,
101 syndicate, or any other group or combination acting as a
102 unit, and the plural as well as the singular number;

103 [(5)] (6) "Purchase", the acquisition of the ownership
104 of, or title to, tangible personal property, through a sale,
105 as defined herein, for the purpose of storage, use or
106 consumption in this state;

107 [(6)] (7) "Purchaser", any person who is the recipient
108 for a valuable consideration of any sale of tangible

109 personal property acquired for use, storage or consumption
110 in this state;

111 ~~[(7)]~~ (8) "Sale", any transfer, barter or exchange of
112 the title or ownership of tangible personal property, or the
113 right to use, store or consume the same, for a consideration
114 paid or to be paid, and any transaction whether called
115 leases, rentals, bailments, loans, conditional sales or
116 otherwise, and notwithstanding that the title or possession
117 of the property or both is retained for security. For the
118 purpose of this law the place of delivery of the property to
119 the purchaser, user, storer or consumer is deemed to be the
120 place of sale, whether the delivery be by the vendor or by
121 common carriers, private contractors, mails, express,
122 agents, salesmen, solicitors, hawkers, representatives,
123 consignors, peddlers, canvassers or otherwise;

124 ~~[(8)]~~ (9) "Sales price", the consideration including
125 the charges for services, except charges incident to the
126 extension of credit, paid or given, or contracted to be paid
127 or given, by the purchaser to the vendor for the tangible
128 personal property, including any services that are a part of
129 the sale, valued in money, whether paid in money or
130 otherwise, and any amount for which credit is given to the
131 purchaser by the vendor, without any deduction therefrom on
132 account of the cost of the property sold, the cost of
133 materials used, labor or service cost, losses or any other
134 expenses whatsoever, except that cash discounts allowed and
135 taken on sales shall not be included and "sales price" shall
136 not include the amount charged for property returned by
137 customers upon rescission of the contract of sales when the
138 entire amount charged therefor is refunded either in cash or
139 credit or the amount charged for labor or services rendered
140 in installing or applying the property sold, the use,

storage or consumption of which is taxable pursuant to sections 144.600 to 144.745. The sales price shall not include usual and customary delivery charges that are separately stated. In determining the amount of tax due pursuant to sections 144.600 to 144.745, any charge incident to the extension of credit shall be specifically exempted;

[(9)] (10) "Selling agent", every person acting as a representative of a principal, when such principal is not registered with the director of revenue of the state of Missouri for the collection of the taxes imposed pursuant to sections 144.010 to 144.525 or sections 144.600 to 144.745 and who receives compensation by reason of the sale of tangible personal property of the principal, if such property is to be stored, used, or consumed in this state;

[(10)] (11) "Storage", any keeping or retention in this state of tangible personal property purchased from a vendor, except property for sale or property that is temporarily kept or retained in this state for subsequent use outside the state;

[(11)] (12) "Tangible personal property", all items subject to the Missouri sales tax as provided in subdivisions (1) and (3) of subsection 1 of section 144.020;

[(12)] (13) "Taxpayer", any person remitting the tax or who should remit the tax levied by sections 144.600 to 144.745;

[(13)] (14) "Use", the exercise of any right or power over tangible personal property incident to the ownership or control of that property, except that it does not include the temporary storage of property in this state for subsequent use outside the state, or the sale of the property in the regular course of business;

172 [(14)] (15) "Vendor", every person engaged in making
173 sales of tangible personal property by mail order, by
174 advertising, by agent or peddling tangible personal
175 property, soliciting or taking orders for sales of tangible
176 personal property, for storage, use or consumption in this
177 state, all salesmen, solicitors, hawkers, representatives,
178 consignees, peddlers or canvassers, as agents of the
179 dealers, distributors, consignors, supervisors, principals
180 or employers under whom they operate or from whom they
181 obtain the tangible personal property sold by them, and
182 every person who maintains a place of business in this
183 state, maintains a stock of goods in this state, or engages
184 in business activities within this state and every person
185 who engages in this state in the business of acting as a
186 selling agent for persons not otherwise vendors as defined
187 in this subdivision. Irrespective of whether they are
188 making sales on their own behalf or on behalf of the
189 dealers, distributors, consignors, supervisors, principals
190 or employers, they must be regarded as vendors and the
191 dealers, distributors, consignors, supervisors, principals
192 or employers must be regarded as vendors for the purposes of
193 sections 144.600 to 144.745.

144.608. 1. For the purpose of more efficiently
2 **securing the payment of and accounting for the tax collected**
3 **and remitted by retailers and vendors, the department is**
4 **hereby authorized:**

5 (1) To consult, contract, and work jointly with the
6 **streamlined sales and use tax agreement's governing board to**
7 **allow sellers to use the governing board's certified service**
8 **providers and central registration system services; or**

9 (2) To consult, contract, and work with certified
10 **service providers independently. The department is**

11 authorized to determine the method and amount of
12 compensation to be provided to certified service providers
13 by this state for the services of such certified service
14 providers to certain sellers, provided that no certified
15 service provider or seller utilizing a certified service
16 provider shall be entitled to the deduction provided in
17 subsection 1 of section 144.140.

18 2. The director of revenue shall make, promulgate, and
19 enforce reasonable rules and regulations for the
20 administration and enforcement of the provisions of this
21 chapter relating to the collection and remittance of sales
22 and use tax by certified service providers. Any rule or
23 portion of a rule, as that term is defined in section
24 536.010, that is created under the authority delegated in
25 this section shall become effective only if it complies with
26 and is subject to all of the provisions of chapter 536 and,
27 if applicable, section 536.028. This section and chapter
28 536 are nonseverable and if any of the powers vested with
29 the general assembly pursuant to chapter 536 to review, to
30 delay the effective date, or to disapprove and annul a rule
31 are subsequently held unconstitutional, then the grant of
32 rulemaking authority and any rule proposed or adopted after
33 January 1, 2023, shall be invalid and void.

144.637. 1. The director of revenue shall provide and
2 maintain a database that describes boundary changes for all
3 taxing jurisdictions and the effective dates of such changes
4 for the use of vendors collecting the tax imposed under
5 sections 144.600 to 144.745.

6 2. For the identification of counties and cities,
7 codes corresponding to the rates shall be provided according
8 to Federal Information Processing Standards (FIPS) as
9 developed by the National Institute of Standards and

10 Technology. For the identification of all other
11 jurisdictions, codes corresponding to the rates shall be in
12 a format determined by the director.

13 3. The director shall provide and maintain address-
14 based boundary database records for assigning taxing
15 jurisdictions and associated rates. The database records
16 shall meet the requirements developed pursuant to the
17 federal Mobile Telecommunications Sourcing Act, 4 U.S.C.
18 Section 119(a). If a vendor is unable to determine the
19 applicable rate and jurisdiction using an address-based
20 database record after exercising due diligence, the vendor
21 may apply the nine-digit zip code designation applicable to
22 a purchase. If a nine-digit zip code designation is not
23 available for a street address or if a vendor is unable to
24 determine the nine-digit zip code designation applicable to
25 a purchase after exercising due diligence to determine the
26 designation, the vendor may apply the rate for the five-
27 digit zip code area. For the purposes of this section,
28 there shall be a rebuttable presumption that a vendor has
29 exercised due diligence if the vendor has attempted to
30 determine the tax rate and jurisdiction by utilizing
31 software approved by the director and makes the assignment
32 from the address and zip code information applicable to the
33 purchase. The databases shall be in the same approved
34 format as the database records under this section and meet
35 the requirements developed pursuant to the federal Mobile
36 Telecommunications Sourcing Act, 4 U.S.C. Section 119(a).
37 If the director certifies an address-based database provided
38 by a third party, a vendor may use such database in place of
39 the database provided for in this subsection.

40 4. The electronic database provided for in subsections
41 1, 2, and 3 of this section shall be in downloadable format

42 as determined by the director. The database may be directly
43 provided by the director or provided by a third party as
44 designated by the director. The databases shall be provided
45 at no cost to the user of the database. The provisions of
46 subsection 3 of this section shall not apply if the
47 purchased product is received by the purchaser at the
48 business location of the vendor.

49 5. No vendor shall be liable for reliance upon
50 erroneous data provided by the director on tax rates,
51 boundaries, or taxing jurisdiction assignments.

144.638. 1. The director shall provide and maintain a
2 taxability matrix. The state's entries in the matrix shall
3 be provided and maintained by the director in a database
4 that is in a downloadable format.

5 2. The director shall provide reasonable notice of
6 changes in the taxability of the products or services listed
7 in the taxability matrix.

8 3. A seller or CSP shall be relieved from liability to
9 this state or any local taxing jurisdiction for having
10 charged and collected the incorrect amount of state or local
11 sales or use tax resulting from such seller's or CSP's
12 reliance upon erroneous data provided or approved by the
13 director in the taxability matrix, and a seller shall be
14 relieved from liability for erroneous returns made by a CSP
15 on behalf of the seller.

144.710. [From every remittance made by a vendor as
2 required by sections 144.600 to 144.745 to the director of
3 revenue on or before the date when the remittance becomes
4 due, the vendor may deduct and retain an amount equal to two
5 percent thereof.] The provisions of section 144.140
6 relating to the allowance for timely remittance of payment

7 shall be applicable to the tax levied under sections 144.600
8 to 144.745.

144.752. 1. For the purposes of this section, the
2 following terms shall mean:

3 (1) "Marketplace facilitator", a person that:

4 (a) Facilitates a retail sale by a marketplace seller
5 by listing or advertising for sale by the marketplace seller
6 in any forum, tangible personal property or services that
7 are subject to tax under this chapter; and

8 (b) Either directly or indirectly through agreements
9 or arrangements with third parties collecting payment from
10 the purchaser and transmitting such payment to the
11 marketplace seller regardless of whether the marketplace
12 facilitator receives compensation or other consideration in
13 exchange for its services.

14 A marketplace facilitator is a seller and shall comply with
15 the provisions of this chapter. A marketplace facilitator
16 does not include a person who provides internet advertising
17 services, or product listing, and does not collect payment
18 from the purchaser and transmit payment to the marketplace
19 seller, and does not include a person with respect to the
20 provision of travel agency services or the operation of a
21 marketplace or that portion of a marketplace that enables
22 consumers to receive travel agency services. For the
23 purposes of this subdivision, "travel agency services" means
24 facilitating, for a commission, fee, or other consideration,
25 vacation or travel packages, rental car or other travel
26 reservations, tickets for domestic or foreign travel by air,
27 rail, ship, bus, or other medium of transportation, or hotel
28 or other lodging accommodations;

29 (2) "Marketplace seller", a seller that makes sales
30 through any electronic marketplace operated by a marketplace
31 facilitator;

32 (3) "Person", any individual, firm, copartnership,
33 joint venture, association, corporation, municipal or
34 private, whether organized for profit or not, state, county,
35 political subdivision, state department, commission, board,
36 bureau or agency, except the department of transportation,
37 estate, trust, business trust, receiver or trustee appointed
38 by the state or federal court, syndicate, or any other group
39 or combination acting as a unit;

40 (4) "Purchaser", any person who is the recipient for a
41 valuable consideration of any sale of tangible personal
42 property acquired for use, storage, or consumption in this
43 state;

44 (5) "Retail sale", the same meaning as defined under
45 sections 144.010 and 144.011, excluding motor vehicles,
46 trailers, motorcycles, mopeds, motortricycles, boats, and
47 outboard motors required to be titled under the laws of the
48 state and subject to tax under subdivision (9) of subsection
49 1 of section 144.020;

50 (6) "Seller", a person selling or furnishing tangible
51 personal property or rendering services on the receipts from
52 which a tax is imposed under section 144.020.

53 2. (1) Beginning January 1, 2023, marketplace
54 facilitators that engage in business activities within this
55 state shall register with the department to collect and
56 remit use tax, as applicable, on sales made through the
57 marketplace facilitator's marketplace by or on behalf of a
58 marketplace seller that are delivered into the state,
59 whether by the marketplace facilitator or another person,
60 and regardless of whether the marketplace seller for whom

61 sales are facilitated possesses a retail sales license or
62 would have been required to collect use tax had the sale not
63 been facilitated by the marketplace facilitator. Such
64 retail sales shall include those made directly by the
65 marketplace facilitator and shall also include those retail
66 sales made by marketplace sellers through the marketplace
67 facilitator's marketplace. The collection and reporting
68 requirements of this subsection shall not apply to retail
69 sales other than those made through a marketplace
70 facilitator's marketplace. Nothing in this section shall be
71 construed to limit or prohibit the ability of a marketplace
72 facilitator and a marketplace seller to enter into
73 agreements regarding the fulfillment of the requirements of
74 this chapter.

75 (2) All taxable sales made through a marketplace
76 facilitator's marketplace by or on behalf of a marketplace
77 seller shall be deemed to be consummated at the location in
78 this state to which the item is shipped or delivered, or at
79 which possession is taken by the purchaser.

80 3. Marketplace facilitators that are required to
81 collect use tax under this section shall report and remit
82 the tax separately from any sales and use tax collected by
83 the marketplace facilitator, or by affiliates of the
84 marketplace facilitator, which the marketplace facilitator
85 would have been required to collect and remit under the
86 provisions of this chapter prior to January 1, 2023. Such
87 tax shall be reported and remitted as determined by the
88 department. Marketplace facilitators shall maintain records
89 of all sales delivered to a location in the state, including
90 electronic or paper copies of invoices showing the
91 purchaser, address, purchase amount, and use tax collected.

92 Such records shall be made available for review and
93 inspection upon request by the department.

94 4. Marketplace facilitators who properly collect and
95 remit to the department in a timely manner use tax on sales
96 in accordance with the provisions of this section by or on
97 behalf of marketplace sellers shall be eligible for any
98 discount provided under this chapter.

99 5. A marketplace facilitator shall provide the
100 purchaser with a statement or invoice showing that the use
101 tax was collected and shall be remitted on the purchaser's
102 behalf.

103 6. Any taxpayer who remits use tax under this section
104 shall be entitled to refunds or credits to the same extent
105 and in the same manner provided for in section 144.190 for
106 taxes collected and remitted under this section. Nothing in
107 this section shall relieve a purchaser of the obligation to
108 remit use tax for any retail sale taxable under this chapter
109 for which a marketplace facilitator or marketplace seller
110 does not collect and remit the use tax.

111 7. Except as provided under subsections 8 and 9 of
112 this section, marketplace facilitators shall be subject to
113 the penalty provisions, procedures, and reporting
114 requirements provided under the provisions of this chapter.

115 8. No class action shall be brought against a
116 marketplace facilitator in any court in this state on behalf
117 of purchasers arising from or in any way related to an
118 overpayment of use tax collected on retail sales facilitated
119 by a marketplace facilitator, regardless of whether that
120 claim is characterized as a tax refund claim. Nothing in
121 this subsection shall affect a purchaser's right to seek a
122 refund as provided under section 144.190.

123 9. A marketplace facilitator shall be relieved from
124 liability under this section for the failure to collect and
125 remit the correct amount of sales or use tax on retail sales
126 facilitated for marketplace sellers to the extent that the
127 marketplace facilitator demonstrates to the satisfaction of
128 the department that the error was due to insufficient or
129 incorrect information given to the marketplace facilitator
130 by the marketplace seller; provided, however, that a
131 marketplace facilitator shall not be relieved of liability
132 under this paragraph if the marketplace facilitator and the
133 marketplace seller are affiliated;

134 10. For the purposes of this section, a marketplace
135 facilitator shall not include a third party financial
136 institution appointed by a merchant or a marketplace
137 facilitator to handle various forms of payment transactions,
138 such as processing credit cards and debit cards, and whose
139 sole activity with respect to marketplace sales is to
140 facilitate the payment transactions between two parties.

141 11. The state general revenue portion from remittances
142 made pursuant to this section, with the exception of
143 revenues collected pursuant to section 144.701 and Article
144 IV, Sections 43(a) and 47(a) of the Missouri Constitution,
145 shall be deposited to the credit of the cash operating
146 expense fund established pursuant to section 33.575.

147 12. The department may promulgate rules to implement
148 the provisions of this section. Any rule or portion of a
149 rule, as that term is defined in section 536.010, that is
150 created under the authority delegated in this section shall
151 become effective only if it complies with and is subject to
152 all of the provisions of chapter 536 and, if applicable,
153 section 536.028. This section and chapter 536 are
154 nonseverable and if any of the powers vested with the

155 **general assembly pursuant to chapter 536 to review, to delay**
156 **the effective date, or to disapprove and annul a rule are**
157 **subsequently held unconstitutional, then the grant of**
158 **rulemaking authority and any rule proposed or adopted after**
159 **January 1, 2023, shall be invalid and void.**

144.757. 1. Any county or municipality[, except
2 municipalities within a county having a charter form of
3 government with a population in excess of nine hundred
4 thousand,] may, by a majority vote of its governing body,
5 impose a local use tax if a local sales tax is imposed as
6 defined in section 32.085 **or if a sales tax is imposed**
7 **pursuant to section 94.850 or 94.890, with such local use**
8 **tax imposed** at a rate equal to the rate of the local sales
9 tax [in effect in] **and any sales tax imposed pursuant to**
10 **section 94.850 or 94.890 by** such county or municipality;
11 provided, however, that no ordinance or order enacted
12 pursuant to sections 144.757 to 144.761 shall be effective
13 unless the governing body of the county or municipality
14 submits to the voters thereof at a municipal, county or
15 state general, primary or special election a proposal to
16 authorize the governing body of the county or municipality
17 to impose a local use tax pursuant to sections 144.757 to
18 144.761. [Municipalities within a county having a charter
19 form of government with a population in excess of nine
20 hundred thousand may, upon voter approval received pursuant
21 to paragraph (b) of subdivision (2) of subsection 2 of this
22 section, impose a local use tax at the same rate as the
23 local municipal sales tax with the revenues from all such
24 municipal use taxes to be distributed pursuant to subsection
25 4 of section 94.890. The municipality shall within thirty
26 days of the approval of the use tax imposed pursuant to
27 paragraph (b) of subdivision (2) of subsection 2 of this

28 section select one of the distribution options permitted in
29 subsection 4 of section 94.890 for distribution of all
30 municipal use taxes.

31 2.] (1) The ballot of submission[, except for
32 counties and municipalities described in subdivisions (2)
33 and (3) of this subsection,] shall contain substantially the
34 following language:

35 Shall the _____ (county or municipality's name)
36 impose a local use tax at the same rate as the
37 total local sales tax rate, [currently _____
38 (insert percent),] provided that if the local
39 sales tax rate is reduced or raised by voter
40 approval, the local use tax rate shall also be
41 reduced or raised by the same action? [A use tax
42 return shall not be required to be filed by
43 persons whose purchases from out-of-state vendors
44 do not in total exceed two thousand dollars in any
45 calendar year] **Approval of this question will
46 eliminate the disparity in tax rates collected by
47 local and out-of-state sellers by imposing the
48 same rate on all sellers.**

49 ☐ YES ☐ NO

50 If you are in favor of the question, place an "X"
51 in the box opposite "YES". If you are opposed to
52 the question, place an "X" in the box opposite
53 "NO".

54 (2) [(a) The ballot of submission in a county having
55 a charter form of government with a population in excess of
56 nine hundred thousand shall contain substantially the
57 following language:

58 For the purposes of enhancing county and municipal
59 public safety, parks, and job creation and
60 enhancing local government services, shall the
61 county be authorized to collect a local use tax
62 equal to the total of the existing county sales

tax rate of (insert tax rate), provided that if the county sales tax is repealed, reduced or raised by voter approval, the local use tax rate shall also be repealed, reduced or raised by the same voter action? Fifty percent of the revenue shall be used by the county throughout the county for improving and enhancing public safety, park improvements, and job creation, and fifty percent shall be used for enhancing local government services. The county shall be required to make available to the public an audited comprehensive financial report detailing the management and use of the countywide portion of the funds each year.

A use tax is the equivalent of a sales tax on purchases from out-of-state sellers by in-state buyers and on certain taxable business transactions. A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

(b) The ballot of submission in a municipality within a county having a charter form of government with a population in excess of nine hundred thousand shall contain substantially the following language:

Shall the municipality be authorized to impose a local use tax at the same rate as the local sales tax by a vote of the governing body, provided that if any local sales tax is repealed, reduced or raised by voter approval, the respective local use tax shall also be repealed, reduced or raised by the same action? A use tax return shall not be required to be filed by persons whose purchases

100 from out-of-state vendors do not in total exceed
101 two thousand dollars in any calendar year.

102 ☐ YES ☐ NO

103 If you are in favor of the question, place an "X"
104 in the box opposite "YES". If you are opposed to
105 the question, place an "X" in the box opposite
106 "NO".

107 (3)] The ballot of submission in any city not within a
108 county shall contain substantially the following language:

109 Shall the _____ (city name) impose a local use
110 tax at the same rate as the local sales tax,
111 [currently at a rate of _____ (insert percent)]
112 which includes the capital improvements sales tax
113 and the transportation tax, provided that if any
114 local sales tax is repealed, reduced or raised by
115 voter approval, the respective local use tax shall
116 also be repealed, reduced or raised by the same
117 action? [A use tax return shall not be required
118 to be filed by persons whose purchases from out-
119 of-state vendors do not in total exceed two
120 thousand dollars in any calendar year] **Approval of**
121 **this question will eliminate the disparity in tax**
122 **rates collected by local and out-of-state sellers**
123 **by imposing the same rate on all sellers.**

124 ☐ YES ☐ NO

125 If you are in favor of the question, place an "X"
126 in the box opposite "YES". If you are opposed to
127 the question, place an "X" in the box opposite
128 "NO".

129 [(4)] 2. If any of such ballots are submitted on
130 August 6, 1996, and if a majority of the votes cast on the
131 proposal by the qualified voters voting thereon are in favor
132 of the proposal, then the ordinance or order and any
133 amendments thereto shall be in effect October 1, 1996,
134 provided the director of revenue receives notice of adoption

of the local use tax on or before August 16, 1996. If any of such ballots are submitted after December 31, 1996, and if a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments thereto shall be in effect on the first day of the calendar quarter which begins at least forty-five days after the director of revenue receives notice of adoption of the local use tax. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the county or municipality shall have no power to impose the local use tax as herein authorized unless and until the governing body of the county or municipality shall again have submitted another proposal to authorize the governing body of the county or municipality to impose the local use tax and such proposal is approved by a majority of the qualified voters voting thereon.

3. The local use tax may be imposed at the same rate as the local sales tax then currently in effect in the county or municipality upon all transactions which are subject to the taxes imposed pursuant to sections 144.600 to 144.745 within the county or municipality adopting such tax; provided, however, that if any local sales tax is repealed or the rate thereof is reduced or raised by voter approval, the local use tax rate shall also be deemed to be repealed, reduced or raised by the same action repealing, reducing or raising the local sales tax.

4. For purposes of sections 144.757 to 144.761, the use tax may be referred to or described as the equivalent of a sales tax on purchases made from out-of-state sellers by in-state buyers and on certain intrabusiness transactions. Such a description shall not change the classification, form

167 or subject of the use tax or the manner in which it is
168 collected.

144.759. 1. All local use taxes collected by the
2 director of revenue pursuant to sections 144.757 to 144.761
3 on behalf of any county or municipality, less one percent
4 for cost of collection, which shall be deposited in the
5 state's general revenue fund after payment of premiums for
6 surety bonds as provided in section 32.087 shall be
7 deposited with the state treasurer in a local use tax trust
8 fund, which fund shall be separate and apart from the local
9 sales tax trust funds. The moneys in such local use tax
10 trust fund shall not be deemed to be state funds and shall
11 not be commingled with any funds of the state. The director
12 of revenue shall keep accurate records of the amount of
13 money in the trust fund which was collected in each county
14 or municipality imposing a local use tax, and the records
15 shall be open to the inspection of officers of the county or
16 municipality and to the public. No later than the tenth day
17 of each month, the director of revenue shall distribute all
18 moneys deposited in the trust fund during the preceding
19 month, except as provided in subsection 2 of this section,
20 to the county or municipality treasurer, or such other
21 officer as may be designated by the county or municipality
22 ordinance or order, of each county or municipality imposing
23 the tax authorized by sections 144.757 to 144.761, the sum
24 due the county or municipality as certified by the director
25 of revenue.

26 2. **Subject to the provisions of subsection 1 of this**
27 **section,** the director of revenue shall distribute all moneys
28 which would be due any county having a charter form of
29 government and having a population of nine hundred thousand
30 or more to the county treasurer or such other officer as may

31 be designated by county ordinance, who shall distribute
32 [such moneys as follows: the] **that** portion of the use [tax]
33 **taxes** imposed by the county [which equals one-half the rate
34 of sales tax in effect for such county shall be disbursed to
35 the county treasurer for expenditure throughout the county
36 for public safety, parks, and job creation, subject to any
37 qualifications and regulations adopted by ordinance of the
38 county. Such ordinance shall require an audited
39 comprehensive financial report detailing the management and
40 use of such funds each year. Such ordinance shall also
41 require that the county and the municipal league of the
42 county jointly prepare a strategy to guide expenditures of
43 funds and conduct an annual review of the strategy. The
44 treasurer or such other officer as may be designated by
45 county ordinance shall distribute one-third of the balance
46 to the county and to each city, town and village in group B
47 according to section 66.620 as modified by this section, a
48 portion of the two-thirds remainder of such balance equal to
49 the percentage ratio that the population of each such city,
50 town or village bears to the total population of all such
51 group B cities, towns and villages. For the purposes of
52 this subsection, population shall be determined by the last
53 federal decennial census or the latest census that
54 determines the total population of the county and all
55 political subdivisions therein. For the purposes of this
56 subsection, each city, town or village in group A according
57 to section 66.620 but whose per capita sales tax receipts
58 during the preceding calendar year pursuant to sections
59 66.600 to 66.630 were less than the per capita countywide
60 average of all sales tax receipts during the preceding
61 calendar year, shall be treated as a group B city, town or
62 village until the per capita amount distributed to such

city, town or village equals the difference between the per capita sales tax receipts during the preceding calendar year and the per capita countywide average of all sales tax receipts during the preceding calendar year] **that is equal to the rate of sales taxes imposed by the county pursuant to sections 66.600 and 67.547 to the cities, towns, and villages within such county and to the unincorporated area of the county on the ratio of the population that each such city, town, village, and the unincorporated areas of the county bears to the total population of the county.**

3. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any county or municipality for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such counties or municipalities. If any county or municipality abolishes the tax, the county or municipality shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal, and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such county or municipality, the director of revenue shall authorize the state treasurer to remit the balance in the account to the county or municipality and close the account of that county or municipality. The director of revenue shall notify each county or municipality of each instance of any amount refunded or any check redeemed from receipts due the county or municipality.

95 4. Except as modified in sections 144.757 to 144.761,
96 all provisions of sections 32.085 and 32.087 applicable to
97 the local sales tax, except for subsection 12 of section
98 32.087, and all provisions of sections 144.600 to 144.745
99 shall apply to the tax imposed pursuant to sections 144.757
100 to 144.761, and the director of revenue shall perform all
101 functions incident to the administration, collection,
102 enforcement, and operation of the tax.

 Section B. Because of the importance of ensuring the
2 fiscal health of the state in an emergency, the enactment of
3 section 33.575 of this act is deemed necessary for the
4 immediate preservation of the public health, welfare, peace
5 and safety, and is hereby declared to be an emergency act
6 within the meaning of the constitution, and the enactment of
7 section 33.575 of this act shall be in full force and effect
8 upon its passage and approval.

 Section C. The repeal and reenactment of sections
2 144.140, 144.605, 144.710, and 144.759 and the enactment of
3 sections 144.608 and 144.752 of this act shall become
4 effective January 1, 2023.

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